

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 Please take notice that on a date and time to be set by the Court, before the Honorable Charles
3 R. Breyer in Courtroom No. 6 on the 17th Floor of the San Francisco Courthouse for the above-
4 entitled Court, located at 450 Golden Gate Avenue, San Francisco, CA 94102, Defendants Uber
5 Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC (collectively, “Uber”), by and through their
6 undersigned counsel, will and hereby do move the Court for an order to quash Plaintiff’s trial
7 subpoena served on Andrew Hasbun because the witness resides and works outside the 100-mile
8 geographical limits of the Court’s subpoena power.

9 This Motion is based on this Notice of Motion, the accompanying Memorandum of Points
10 and Authorities, the pleadings, papers, and records filed in this action, and such further arguments
11 and matters as may be offered at the time of the hearing of this Motion.

12 Dated: December 19, 2025

KIRKLAND & ELLIS LLP

13 By: /s/ Laura Vartain Horn

14 *Counsel for Uber*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff seeks to circumvent Rule 45's 100-mile geographical limitations on the Court's
4 subpoena power to compel Andrew Hasbun, Uber's Director of Communications, to testify at the
5 upcoming trial. As the Ninth Circuit has made clear, "despite changes in technology and professional
6 norms, the rule governing the court's subpoena power has not changed[.]" *In re Kirkland*, 75 F.4th
7 1030, 1051-52 (9th Cir. 2023). Indeed, the geographic limits are so "strict" that a trial court's failure
8 to heed them has resulted in the "extraordinary remedy" of mandamus relief. *Id.* at 1040, 1046
9 (bankruptcy court improperly "stretch[ed] the federal subpoena power well beyond the bounds of
10 Rule 45, which focuses on the *location of the proceeding* in which a witness is compelled to testify").
11 Simply put, because Mr. Hasbun resides and works more than 100 miles from the courthouse at which
12 Plaintiff's trial will be conducted, "the district court '*must quash*' . . . the subpoena." *Id.* at 1042.

13 **II. STATEMENT OF THE ISSUE TO BE DECIDED**

14 Should Plaintiff be allowed to compel the appearance of Mr. Hasbun at the upcoming trial,
15 which is located more than 100 miles away from where Ms. Hasbun lives, works or regularly transacts
16 in-person business?

17 **III. ARGUMENT**

18 "Federal Rule of Civil Procedure 45(c) defines the 'place of compliance' for subpoenas and
19 the geographical scope of a federal court's power to compel a witness to testify at a trial or other
20 proceeding." *In re Kirkland*, 75 F.4th at 1042 (citing Fed. R. Civ. P. 45(c)). First, a person can be
21 commanded to attend trial "within 100 miles of where the person resides, is employed, or regularly
22 transacts business in person[.]" Fed. R. Civ. P. 45(c)(1)(A). Second, a person can be compelled to
23 attend a trial "within the state where the person resides, is employed, or regularly transacts business
24 in person, if the person (i) is a party or a party's officer; or (ii) . . . would not incur substantial
25 expense." Fed. R. Civ. P. 45(c)(1)(B). "If a trial subpoena exceeds these geographical limits, the
26 district court '*must quash*' the subpoena. *In re Kirkland*, 75 F.4th at 1042 (citing Fed. R. Civ. P.

1 45(d)(3)(A)(ii)).¹ These “geographical limits” “define the scope of a court’s power to compel a
 2 witness to participate in a proceeding[.]” *Id.* at 1044-45 (citation omitted); *Orbital Eng’g, Inc. v.*
 3 *Buchko*, No. CV 2:20-593, 2022 WL 170043, at *3 (W.D. Pa. Jan. 19, 2022) (quashing trial subpoena
 4 with respect to employees of plaintiff located outside subpoena limits); *In re EpiPen (Epinephrine*
 5 *Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, MDL No. 2785, 2021 WL 2822535, at *4 (D.
 6 Kan. July 7, 2021) (declining to “ignore Rule 45’s limits on [the court’s] subpoena power” with
 7 respect to out-of-state witnesses); *Coblin v. DePuy Orthopaedics, Inc.*, No. 3:22-cv-00075-GFVT-
 8 MAS, 2024 U.S. Dist. LEXIS 57714, at *6-7 (E.D. Ky. Mar. 29, 2024) (quashing trial subpoena on
 9 company witness located more than 100 miles away from courthouse because “[t]he Court cannot
 10 compel how a person may testify if it cannot first ensure the witness is within the Court’s reach to
 11 compel”); *Bioconvergence LLC v. Attariwala*, No. 1:19-cv-01745-SEB-MG, 2023 WL 4494020, at
 12 *2 (S.D. Ind. June 29, 2023) (refusing to disregard Rule 45’s strict geographic limitations); *Rochester*
 13 *Drug Coop., Inc. v. Campanelli*, No. 23 Misc. 89 (KPF), 2023 WL 2945879, at *2 (S.D.N.Y. Apr.
 14 14, 2023) (a witness “can be commanded to testify only from a place described in Rule 45(c)(1)”);
 15 *Black Card LLC v. Visa USA Inc.*, No. 15-CV-27-SWS, 2020 WL 9812009, at *4 (D. Wyo. Dec. 2,
 16 2020) (similar).

17 Here, Plaintiff has subpoenaed Mr. Hasbun (who lives and works in California) to testify at a
 18 trial in Arizona (oddly, on Martin Luther King Day, when court is not in session). Because Mr.
 19 Hasbun does not live, work, or regularly conduct any in-person business in Arizona, the first metric
 20 for commanding his appearance at trial in Arizona does not apply. Nor can Ms. Hasbun be compelled
 21 to appear in accordance with the second metric because the trial will be conducted more than 100
 22 miles away from where Mr. Hasbun lives and works. As a result, Mr. Hasbun cannot “be compelled
 23 to testify *in person* at a trial in” Arizona. *In re Kirkland*, 75 F.4th at 1042. Rather, if Plaintiff wishes
 24 to present Mr. Hasbun’s testimony at trial, she has 15 hours of his deposition testimony at her
 25

26 ¹ The Ninth Circuit went on to make clear that “the rule governing the court’s subpoena power . . .
 27 does not except remote appearances from the geographical limitations” under Rule 43. *Id.* at 1051-52.
 Thus, any attempt by Plaintiff to circumvent these limits by using Rule 43 to attempt to compel Mr.
 Hasbun to testify by contemporaneous transmission would also contravene settled law. *Id.*

1 disposal. Any other conclusion would improperly “stretch the federal subpoena power well beyond
 2 the bounds of Rule 45” and contravene binding and well-established law. *Id.* at 1046. For this reason
 3 alone, the Court should quash Plaintiff’s trial subpoena.

4 **V. CONCLUSION**

5 For all of the foregoing reasons, the Court should quash Plaintiff’s trial subpoena seeking to
 6 compel Andrew Hasbun’s attendance at the upcoming trial.

7 DATED: December 19, 2025

Respectfully submitted,

8 */s/ Laura Vartain Horn*

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1 **PROOF OF SERVICE**

2 I hereby certify that on December 19, 2025, I electronically filed the foregoing document with
3 the Clerk of the Court using the CM/ECF system, which will automatically send notification of the
4 filing to all counsel of record.

5 By: /s/ Laura Vartain Horn

6 Laura Vartain Horn

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